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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,055	10/31/2003	Jay J. Baker	041053/270490	1209

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EXAMINER

AHMAD, NASSER

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/699,055	Applicant(s) BAKER, JAY J.	
	Examiner Nasser Ahmad	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/13/04, 10/31/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Rejections Withdrawn

1. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckhout (5487557) made in the last Office Action of 8/9/2006 has been withdrawn in view of the amendment filed on 11/9/2006.
2. Claims 1-2 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtney (5622389) made in the last Office Action of 8/9/2006 has been withdrawn in view of the amendment filed on 11/9/2006.

Response to Arguments

3. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckhout (5487557).

Eckhout relates to an apparatus (12) comprising a base shell (36) having an outer side and a generally opposing wall side facing said wall (14), said base shell including one or more landings on said outer side (the planar surface and the curved edges are

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interpreted to include one or more landings), the total surface area of the one or more landing is less than a surface area of said outer side (the two curved edge surfaces are taken to be the landings, and its total surface area is shown to be less, in figure-3, than a surface area of the outer side); an outer shell (32) having an outwardly-facing decorative side and a generally opposing inner side facing said wall, said outer shell including one or more bases (the planar surface and the curved edges are interpreted to be plural bases) on said inner side, said one or more bases have a total surface area that is less than a surface area of said inner side (the two curved edge surfaces are taken to be the bases, and its total surface area is shown to be less, in figure-3, than a surface area of the inner side); said one or more bases corresponding in size and location to said one or more landings as shown in figure-3; and one or more shell fasteners for attaching said one or more bases to said one or more landings, thereby joining said outer shell to said base shell (figure-3 shows that the outer shell is fastened to the base shell).

Claim 2, the base shell has one or more footings (40) on said wall side, one or more wall fasteners (42) for attaching said one or more footings to said wall, thereby joining said base shell to said wall. As shown in figure-10, there are one or more footings (40) and one or more fasteners (42) being positioned between said footings and the wall (because the fastener is the fastening aperture 42 and is located between the footing and the wall 14).

Regarding claim 3, the apparatus further comprises one or more intermediate shells (34) having one or more intermediate bases (the planar surface and the curved edges

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are interpreted to be plural bases) on an inner surface and one or more intermediate landings (the planar surface and the curved edges are interpreted to be plural landings) on an outer surface, said one or more intermediate bases corresponding in size and location to said one or more landings on said base shell, and said one or more intermediate landings corresponding in size and location to said one or more bases on said outer shell, and one or more intermediate fasteners for attaching said one or more intermediate shells to said base shell as shown in figure-3, wherein the intermediate shell is secured to the base shell at the interface. Further, as shown in figure-3, the intermediate bases has a total surface area that is less than a surface area of the inner side (because the curved edges are taken to be the bases and its total surface area is seen to be less than a surface area of the inner side). Similarly, the intermediate landings are taken to be the curved edges and its total surface area is less than a surface area of the outer surface as shown in figure-3.

As for claim 4, said one or more footings (40) on said wall side form one or more corresponding channels on said outer side of said base shell channel is the area containing the layer 34), and wherein said one or more landings (layer 34) are interspersed on said outer side between and among said one or more channels.

Regarding claim 5, the base and the outer shells are plastic material. The phrase "thermoformed" have not been given any patentable weight because it is directed to a specific process step and the process of making the product is not germane to the issue of patentability of the itself.

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For claim 6, the joined base shell and outer shell define a cavity (figure-3). As for the phrase "joined base shell and said wall define a cavity", it is not found to be of positive limitation as it is directed to an intended future use of the claimed product with the wall. applicant should not that the claims are drawn to an apparatus that is a multi-shell appliqué and not its combination with a wall.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtney (5622389).

Courtney relates to an apparatus (10) comprising a base shell (14) having an outer side and a generally opposing wall side facing said wall (body of the vehicle), said base shell including one or more landings on said outer side (the planar surface with element **16** is interpreted to be one landing), one or more landing having a total surface area than is less than a surface area of said outer side (the outer planar surface is taken to be the landing and its total surface area is less than a surface area of the outer side which would include the planar surface and the edge/curved surfaces); an outer shell (11) having an outwardly-facing decorative side and a generally opposing inner side facing said wall, said outer shell including one or more bases (the planar surface is interpreted

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to be one base) on said inner side; said one base corresponding in size and location to said one landing as shown in figure-2, (the outer planar surface is taken to be the base and its total surface area is less than a surface area of the outer side which would include the planar surface and the edge surfaces); and one or more shell fasteners (16) for attaching said one base to said one landing, thereby joining said outer shell to said base shell (figure-2 shows that the outer shell is fastened to the base shell).

For claim 2, although not shown in the drawings, it is well known in the vehicle art that a bumper has on its backside one or more footings, such as attachment projections, and one or more fasteners for attaching said footings to the wall or vehicle body and the fasteners are positioned between the footings to hold the footings in-place.

For claim 9, the shell fastener is a two-part fastening tape joined by hook side and loop side (16) which is adhesively secured to the bumper wall.

However, Courtney fails to teach the presence of a release liner covering the adhesive surface. It would have been obvious to one having ordinary skill in the art to modify Courtney's hook and loop tapes' adhesive surface to have a release liner for providing protection thereto prior to applying the tape to the bumper surface because use of a protective adhesive release liner is well known in the adhesive art.

Response to Arguments

8. Applicant argues that Eckhout fails to teach the amended claim 1 as presented in the amendment filed on 11/9/2006. This is not found to be convincing because, as

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explained in the rejections made hereinabove, the amended claim 1 is still anticipated by Eckhout.

In response to applicant's argument that Eckhout does not teach one or more fasteners joining said outer shell to said base shell, applicant should note that the outer shell is secured to the base shell and the interface is interpreted to be the fastener.

Regarding applicant's argument that claims 2-4, as amended, are not taught by Eckhout, applicant's attention is directed to the rejections made hereinabove, wherein it has been explained as to teachings and interpretation of Eckhout which anticipates the claimed invention regarding the fastener, footing, etc. further, with regard to applicant's position that Eckhout fails to teach channel formed on the outer side, applicant is directed to Eckhout's figure-3 wherein it is shown tha the outer side corresponding the footing (40) has a channel containing therein the layer **34**.

For claim 5, the it has been considered with the exception that the phrase "thermoformed" which is directed to a process condition for the thermoplastic sheet.

Responding to applicant's argument for claim 6, it is moot in view of the rejection made hereinabove.

With respect to Courtney, applicant is directed to the rejection made hereinabove for claims 1-2 and 9-10.

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Allowable Subject Matter

9. Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach shell fasteners comprises segments of foam tape as recited in claims 7 and 8.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-

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1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Nasser Ahmad 1/18/07
Primary Examiner
Art Unit 1772

N. Ahmad.
January 18, 2007.